



**SAN BERNARDINO COUNTY  
FLOOD CONTROL DISTRICT**

**F A S**

**CONTRACT TRANSMITTAL**

**FOR COUNTY USE ONLY**

E	<input checked="" type="checkbox"/>	New	Vendor Code			Dept.		Contract Number	
M	<input type="checkbox"/>	Change			SC		A		
X	<input type="checkbox"/>	Cancel							
County Department						Dept.	Orgn.	Contractor's License No.	
San Bernardino County Flood Control District									
County Department Contract Representative						Ph. Ext.		Amount of Contract	
Glen Pruim, Chief						387-2633			
Fund	Dept.	Organization	Appr.	Obj/Rev	Source	Activity	GRC/PROJ/JOB Number		
							FL2401		
Commodity Code				Estimated Payment Total by Fiscal Year					
				FY	Amount	I/D	FY	Amount	I/D
Project Name									
COLTON/SAN									
BERNARDINO - SAWPA									

CONTRACTOR SANTA ANA WATERSHED PROJECT AUTHORITY, CITY OF SAN BERNARDINO, CITY OF SAN BERNARDINO  
MUNICIPAL WATER DEPARTMENT AND CITY OF COLTON

Birth Date \_\_\_\_\_ Federal ID No. or Social Security No. \_\_\_\_\_

Contractor's Representative Lee E. Slate

Address 11615 Sterling Avenue, Riverside, CA 92503 Phone (909) 785-5411

Nature of Contract: *(Briefly describe the general terms of the contract)*

This license is a 50-year agreement for the use of approximately 7.1 acres of District's right-of-way for a pipeline in the Rialto Channel, Twin Creek Channel, C/E, Warm Creek, C/E, Santa Ana River and Rancho Avenue Storm Drain in the cities of Colton and San Bernardino.

THIS IS NOT A CONTRACT  
THIS IS A COVER  
TRANSMITTAL ONLY

*(Attach this transmittal to all contracts not prepared on the "Standard Contract" form.)*

Approved as to Legal Form

Reviewed as to Affirmative Action

Reviewed for Processing

► SEE SIGNATURE PAGE

County Counsel

Date \_\_\_\_\_

►

Date \_\_\_\_\_

►

Agency Administrator/CAO

Date \_\_\_\_\_

**SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT  
LICENSE AGREEMENT**

**LICENSEE:** Santa Ana Watershed Project Authority  
11615 Sterling Avenue  
Riverside, CA 92503

City of Colton  
650 N. La Cadena Drive  
Colton, CA 92324

City of San Bernardino  
300 N. "D" Street  
San Bernardino, CA 92418

City of San Bernardino Municipal Water Department  
P.O. Box 710  
San Bernardino, CA 92402

**DISTRICT:** San Bernardino County Flood Control District  
825 East Third Street  
San Bernardino, CA 92415-0835

**PREMISES:** A strip of District's right-of-way 15 foot wide by 20,606 feet long located along the Rialto Channel, Twin Creek Channel, C/E, Warm Creek, C/E, Santa Ana River and Rancho Avenue Storm Drain in the cities of Colton and San Bernardino.

**TERM OF LICENSE:** Fifty (50) years with two (2) ten-year options.

**COMMENCEMENT DATE OF LICENSE:** March 1, 1996

SAN BERNARDINO CO. FLOOD CONTROL DISTRICT CONTRACT NO. \_\_\_\_\_

**REV. 10/10/97**

**TYPED: 02/04/99**

## TABLE OF CONTENTS

<b>PARAGRAPH</b>	<b>CAPTION</b>	<b>PAGE</b>
1	USE	1
2	TERM	1
3	OPTION TO EXTEND TERM	1
4	FEES	2
5	ACCEPTANCE OF PREMISES	2
6	ASSIGNMENT	2
7	DISTRICT'S ACCESS TO PREMISES	2
8	MAINTENANCE/REPAIRS	2
9	RELOCATION	3
10	HAZARDOUS MATERIALS	3
11	IMPROVEMENTS	5
12	DEFAULT AND RIGHT TO TERMINATE	5
13	HOLDING OVER	6
14	LICENSES AND CERTIFICATIONS	7
15	INSURANCE REQUIREMENTS	7
16	HOLD HARMLESS	8
17	TAXES, ASSESSMENTS AND LICENSES	9
18	COMPLIANCE WITH LAW	9
19	GENERAL COVENANTS AND AGREEMENTS	9
20	INCORPORATION OF PRIOR AGREEMENT	10
21	WAIVERS	10
22	AMENDMENTS	10
23	SUCCESSORS	10
24	PROVISIONS ARE COVENANTS AND CONDITIONS	10
25	CONSENT	10
26	EXHIBITS	10
27	LAW	10
28	CAPTIONS AND COVER PAGE	10
29	SEVERANCE	10
30	NOTICES	11
31	SURVIVAL	12

Exhibit "1" Permit No. P-293065  
Exhibit "2" Insurance  
Exhibit "3" Hazardous Substances  
Exhibit "4" Transfer Property Deed

## **LICENSE AGREEMENT**

This license agreement is made and entered into by and between the San Bernardino County Flood Control District, a body politic and corporate, ("DISTRICT") and Santa Ana Watershed Project Authority ("SAWPA"), a joint power public agency, City of San Bernardino, a municipal corporation, ("San Bernardino"), City of San Bernardino Municipal Water Department, acting by and through its Board of Water Commissioners ("San Bernardino Water") and the City of Colton, a municipal corporation ("Colton"), (collectively and severally "LICENSEE").

### **WITNESSETH**

WHEREAS, the LICENSEE intends to construct a Rapid Infiltration Extraction/Santa Ana Regional Interceptor (RIX/SARI) pipeline along DISTRICT's right-of-way for Rialto Channel, Twin Creek Channel, C/E, Warm Creek, C/E, Santa Ana River and Rancho Avenue Storm Drain in the cities of Colton and San Bernardino, California, under Permit No. P-293065 issued by DISTRICT to LICENSEE and attached as Exhibit "1" and incorporated herein by reference; and,

WHEREAS, DISTRICT and LICENSEE now desire to enter into a license agreement for the use of the property; and,

NOW, THEREFORE, in consideration of mutual covenants and conditions, the parties hereto agree to the following:

In consideration of the covenants and agreements hereinafter contained being fully kept and performed, and in consideration of the benefits to be derived by each party, DISTRICT does hereby grant to LICENSEE a non-exclusive license for all of that certain real property situated in the cities of Colton and San Bernardino, County of San Bernardino, State of California, said property described as a fifteen foot wide by 20,606 feet along strip of property more fully described in Exhibit "1" the ("Premises").

### **COVENANTS AND AGREEMENTS:**

1. **USE:** The DISTRICT grants a license for the above-described property to LICENSEE for the purpose of operating and maintaining a RIX/SARI pipeline (LICENSEE'S "FACILITIES").

This license and the rights herein granted to LICENSEE shall be subject to the paramount legal duties and obligations of DISTRICT pursuant to the San Bernardino County Flood Control Act of 1939.

2. **TERM:** The term of said license shall be fifty (50) years duration commencing March 1, 1996 and terminating February 28, 2046, unless sooner terminated or extended by the parties.

3. **OPTION TO EXTEND TERM:** DISTRICT gives LICENSEE the option to extend the term of the license on the same provisions and conditions, except for the annual fee, for two (2) ten-year periods ("extended terms") following expiration of the initial term, provided that at the time of exercise of the applicable option, LICENSEE is not in default with respect to any of the terms, covenants or conditions to be observed or performed by LICENSEE hereunder, by LICENSEE giving written notice of exercise of the option to DISTRICT at least one

(1) year, but not more than eighteen (18) months, prior to the expiration of the preceding term. Said options shall be deemed to be independent and consecutive, with LICENSEE's right to exercise the second of said options terminating upon LICENSEE's failure to exercise the first option. The annual fee for each extended term shall be renegotiated by good faith negotiation of the parties to the fair market rent for comparable properties in San Bernardino County.

4. **FEES:** In lieu of paying fees by LICENSEE to DISTRICT for this license agreement, LICENSEE agrees to transfer title to DISTRICT of the real property consisting of 1.79 acres more or less located at the west side of the Santa Ana River southeasterly of the intersection of Riverside Avenue and Agna Mansa Road in Colton, California (the "transfer property") said grant deed attached as Exhibit "4". DISTRICT and LICENSEE agree the value of the transferred property is equal to the fees due under this license agreement and is payment in full by LICENSEE to DISTRICT. LICENSEE agrees to execute the deed upon execution of this license agreement.

5. **ACCEPTANCE OF PREMISES:** Upon the acceptance of the possession and occupancy of the Premises by LICENSEE, the same shall conclusively be deemed to be fit and proper for the purposes for which the same is hereby let and to be used with LICENSEE's acknowledgement, acceptance and understanding that the Premises will be within a flood prone area which could result in severe losses in the event of major storms.

6. **ASSIGNMENT:** This license shall not be assigned without the express written approval of the DISTRICT.

7. **DISTRICT'S ACCESS TO PREMISES:**

A. DISTRICT, or a duly authorized representative of the DISTRICT, reserves the right to enter upon the property at any reasonable time for the purpose of inspecting the property for conformance to license provisions and for carrying out any routine and emergency maintenance or construction repair work on the San Bernardino County Flood Control District's facilities that DISTRICT may deem expedient nor shall said DISTRICT be liable for damages to LICENSEE's improvements as a result thereof except in non-emergency instances where DISTRICT has acted negligently.

B. DISTRICT's activities shall take precedence at all times, and when any work or activity must be performed to carry out the functions and purposes of the DISTRICT, LICENSEE must allow same to be done without interference. DISTRICT shall give LICENSEE reasonable notice of impending activities whenever possible.

8. **MAINTENANCE/REPAIRS:**

A. The DISTRICT's maintenance roads will be available for normal and routine maintenance of the LICENSEE's facilities by LICENSEE. Maintenance of corridor installation will be the responsibility of the LICENSEE and periodic inspections will be required by the DISTRICT. Any damage to DISTRICT's facilities or facilities of others resulting from said maintenance activities shall be the responsibility of LICENSEE. If an installation becomes a hazard to DISTRICT's facilities or other users of operating right-of-way, the LICENSEE will be required to eliminate the hazard. Should maintenance activities be required during the period October 15 to April 15, work shall be undertaken within a five (5) day clear weather forecast. LICENSEE shall maintain or

provide for flood watch when storm conditions threaten and have personnel and equipment available on a 24-hour schedule. LICENSEE shall notify DISTRICT in advance of its intention to make major repairs subject to DISTRICT's inspection and fees pursuant to the current fee schedule.

B. LICENSEE shall have ten (10) days after notice from DISTRICT to commence to perform its obligation under this paragraph, except that LICENSEE shall perform its obligations immediately if the nature of the problem presents a hazard or emergency. If LICENSEE does not perform its obligations within the time limitations in this paragraph, DISTRICT can perform the obligations and has the right to be reimbursed for the sum it actually expends in the performance of LICENSEE's obligations. Any notice or demand provided by the paragraph may be made orally by telephone or otherwise, provided that written confirmation is given within five (5) days after the oral notice or demand is made. Such confirmation shall be made as provided in **Paragraph 30, "NOTICES."**

C. LICENSEE shall provide DISTRICT with an annual inspection report within thirty (30) days of the end of each license year indicating the date the LICENSEE's FACILITIES have been inspected for each location and verifying that no clogs or leaks have been noted and that LICENSEE's FACILITIES are in good operating order.

9. **RELOCATION:**

A. When LICENSEE's facilities require relocation or protection because of DISTRICT's construction, the work shall be performed by the LICENSEE at its expense and whenever possible in advance of DISTRICT's work. The DISTRICT shall not unreasonably require the LICENSEE's FACILITIES to be relocated.

B. The DISTRICT has fee title to the right-of-way. The DISTRICT reserves the right to allow other uses of the right-of-way. These additional uses may require relocation or protection of existing facilities owned by LICENSEE. Relocation and protection of existing facilities owned by LICENSEE shall require the approval of LICENSEE. The cost of the relocation or protective work shall be the responsibility of the new applicant.

10. **HAZARDOUS MATERIALS:**

A. Definition. For purposes of this agreement, the term "Hazardous Substance" means any (a) substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq. ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. ("RCRA"); Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq.; the Clean Water Act, 33 U.S.C. Sections 1251 et seq.; the California Hazardous Waste Control Act, Health and Safety Code Sections 25100 et seq.; the California Hazardous Substance Account Act, Health and Safety Code Sections 25330 et seq.; the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Sections 25249.5 et seq.; California Health and Safety Code Sections 25280 et seq. (Underground Storage of Hazardous Substances); the California Hazardous Waste Management Act, Health and Safety Code Sections 25170.1 et seq.; California Health and Safety Code Sections 25501 et seq. (Hazardous Materials Response Plans and Inventory); or the California Porter-Cologne Water Quality Control Act, Water Code Sections 1300 et seq., all as amended, (the above-cited California state

statutes are hereinafter collectively referred to as "the State Toxic Substances Laws") or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court, (c) petroleum or crude oil other than petroleum and petroleum products contained within regularly operated motor vehicles, and (d) asbestos.

B. In connection with the license of the property by LICENSEE, (a) LICENSEE agrees and acknowledges that it has had an opportunity to investigate the property and its environs for the presence of any hazardous substance; (b) any and all reports, studies, analyses, estimates, maps, drawings, materials, etc. delivered by DISTRICT to LICENSEE preceding execution of this license are delivered to LICENSEE as an accommodation and not with the intent that such items be relied upon by LICENSEE, except to the extent that LICENSEE has independently confirmed the validity of such items; and (c) LICENSEE's decision to enter into this license is based upon the investigation, study and analysis of the property made by LICENSEE or its agents and/or independent contractors, and not upon oral or written statements or representations of DISTRICT. It is expressly understood by LICENSEE and DISTRICT that all statements and representations made by DISTRICT which are not included in this agreement (a) are intended by DISTRICT to be made as an accommodation to LICENSEE in DISTRICT's investigation and not in lieu of LICENSEE's investigation; and (b) are not to be relied and acted upon by LICENSEE.

C. Except as properly permitted and regulated by applicable National Pollution Discharge Elimination System permits and SAWPA Discharge Ordinance, LICENSEE shall not permit, authorize, or suffer at any time herein relevant the presence, use, manufacture, handling, generation, storage, treatment, discharge, release, burial or disposal on, under or about the property of any hazardous substance, or the transportation to or from the property of any hazardous substance.

D. Except as prohibited by law, LICENSEE agrees, in addition to those obligations imposed upon it pursuant to **Paragraph 16, "HOLD HARMLESS"**, herein, to indemnify, defend with counsel acceptable to DISTRICT, protect and herein hold harmless DISTRICT, its directors, officers, employees, agents, assigns, any successor or successors to DISTRICT's interest in the property from and against all claims, actual damages (including but not limited to special and consequential damages), punitive damages, injuries, costs, response costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses of any kind whatsoever paid, incurred or suffered by, or asserted against, the property or any indemnified party directly or indirectly arising from or attributable to (a) any breach by the LICENSEE or any of its agreements, warranties or representations set forth in this license, or (b) any repair, cleanup or detoxification, or preparation and implementation by LICENSEE of any removal, remedial, response, closure or other plan concerning any hazardous substance on, under or about the property, regardless of whether undertaken due to governmental action.

E. Without limiting the generality of this indemnity, this indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. Section 9607 (e) and California Health and Safety



Code Section 25364 to insure, protect, hold harmless and indemnify DISTRICT for any liability pursuant to such sections.

11. **IMPROVEMENTS:** All improvements to the Premises that are directly related to the operation and maintenance of a RIX/SARI pipeline shall remain the property of LICENSEE. Upon termination of this license or any extension or renewal thereof, and the faithful performance of each and all of the terms, covenants and conditions thereof, the LICENSEE shall have the right to remove improvements directly related to the operation and maintenance of a RIX/SARI pipeline, and shall have a period of six (6) months, after such termination, within which to complete the removal of these items. Upon such termination, if the LICENSEE does not elect to exercise such right, DISTRICT shall either require LICENSEE, at LICENSEE'S expense, to remove all such items, or elect to retake possession of the Premises together with all such items which shall thereupon become the property of the DISTRICT.

12. **DEFAULT AND RIGHT TO TERMINATE:**

A. If there should be any default in payment by LICENSEE of the fee provided herein, DISTRICT may give LICENSEE written notice of such default. This license will not be terminated if within thirty (30) days after receipt of such written notice the LICENSEE shall cure the default or breach.

B. If LICENSEE should fail to perform, keep or observe any of the terms, conditions or covenants as set forth in this license, other than payment of fees as provided hereinabove, DISTRICT may give LICENSEE written notice to correct such condition and upon failure thereafter to cure the default by LICENSEE, DISTRICT shall cure the default at the expense of LICENSEE.

1. This license will not be terminated if within sixty (60) days after receipt of such written notice, the LICENSEE shall cure the condition or default.

2. If such condition or default should continue for sixty (60) days after receipt of written notice of default, DISTRICT may at its option elect to terminate this license. Such election to terminate shall not be construed as a waiver of any claim the DISTRICT may have against LICENSEE, consistent with such termination.

3. If, however, LICENSEE shall have commenced the elimination of such default within thirty (30) days after receipt of such notice and shall continuously and diligently proceed in good faith to eliminate such default, then the period for correction shall be extended for such length of time as is reasonably necessary to complete such correction.

C. If, however, in the sole discretion of DISTRICT, the problem represents a hazard or emergency or if a regulatory agency having jurisdiction deems that the matter shall be performed in a shorter time frame than that provided in **Paragraph 12B(1) & (2) above**, LICENSEE shall perform its obligations immediately. If LICENSEE fails to perform its obligations immediately, DISTRICT may perform the obligations and have the right to be reimbursed for the sum it actually expends in the performance of LICENSEE's obligations.

D. Upon any termination of this license, LICENSEE covenants and agrees to surrender and to forfeit this license, and deliver up the Premises peaceably to the DISTRICT immediately upon any such termination. If

said LICENSEE shall remain in possession of said Premises after any termination of this license, said LICENSEE shall be deemed guilty of an unlawful detention of the Premises and shall be subject to eviction and removal, forcibly or otherwise, at anytime thereafter, with or without process of law. In the event of the failure of LICENSEE to remove personal property, machinery or fixtures, if any, belonging to it from the Premises immediately upon any termination of this license, DISTRICT may remove such personal property and place the same in storage at the expense of LICENSEE and without liability to DISTRICT for loss thereof. LICENSEE agrees to pay DISTRICT on demand all expenses incurred in such removal, including court costs and attorney's fees and storage charges; or DISTRICT may at its option without notice sell all or any part of said personal property at public or private sale for such prices as DISTRICT may obtain, and apply the proceeds of such sale upon any amounts due under this license from LICENSEE and to any expense incidental to the removal and sale of said personal property, with the surplus, if any, being refunded to LICENSEE.

E. The receipt by the DISTRICT of any fees or of any other sum of money paid by LICENSEE after any default, the termination and forfeiture of this license for any reason, or after the giving by DISTRICT of any notice to effect such termination, shall not waive the default, reinstate, continue or extend the term of this LICENSE, or destroy, or in any manner impair the efficacy of any such notice of termination as may have been given hereunder by DISTRICT to the LICENSEE prior to the receipt of any such sum of money or other consideration, unless so agreed to be in writing and signed by DISTRICT. Any act of the DISTRICT or its agents or employees during the term of this license shall not be deemed to be an acceptance or a surrender of said Premises, excepting an agreement in writing signed by the DISTRICT agreeing to accept such surrender.

13. **HOLDING OVER:** If the LICENSEE continues in possession of the Premises after the expiration of the term or after any termination of this license prior to the expiration of the term, and if said occupancy is with the consent of the DISTRICT, then LICENSEE shall be deemed to be holding the property on a year-to-year basis subject to all the provisions of this license, and the annual fee payable during such period of holding over shall be the same as the annual fee most recently payable prior to the date such holding over was commenced.

14. **LICENSES AND CERTIFICATIONS:** LICENSEE agrees that it will acquire and maintain those certifications, licenses, approvals and permits required by any Federal, State or local jurisdiction or authority for carrying out the purpose of this license. Failure to comply with this provision will constitute a default and right to terminate by DISTRICT under **Paragraph 12, "DEFAULT AND RIGHT TO TERMINATE,"** of this license.

15. **INSURANCE REQUIREMENTS:**

A. DISTRICT is a public entity and is self-insured.

B. Without in any way affecting the indemnity herein provided, and in addition thereto, the LICENSEE shall secure and maintain throughout the lease the following types of insurance with limits as shown.

1. **Comprehensive General and Automobile Liability Insurance.** This coverage is to include contractual coverage and automobile liability coverage for owned, hired and non-owned vehicles. The policy shall have combined single limits for bodily injury and property damage of not less than One Million and

00/100 Dollars (\$1,000,000.00). This policy or other insurance must include coverage for loss or damage from explosion, collapse, water damage and underground hazards.

2. **Workers' Compensation Insurance.** A program of workers' compensation insurance or a state-approved self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability Insurance with Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) limits, covering all persons providing services on behalf of the LICENSEE and all risks to such persons under this agreement.

3. **Environmental Liability Insurance.** This insurance shall have a combined single limit of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence.

C. **Additional Named Insured:** All policies, except for the Workers' Compensation, shall contain additional endorsements naming the San Bernardino County Flood Control District (a separate, legal public entity) and the County of San Bernardino (a separate, legal public entity) and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the occupancy hereunder.

D. **Waiver of Subrogation Rights:** LICENSEE shall require the carriers of the above required coverages to waive all rights of subrogation against the DISTRICT/COUNTY, its officers, employees, agents, volunteers, contractors and subcontractors.

E. **Policies Primary and Non-Contributory:** All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the DISTRICT/COUNTY.

F. **Proof of Coverage:** LICENSEE shall immediately furnish certificates of insurance to the DISTRICT, evidencing the insurance coverage, including endorsements, above required prior to the commencement of occupancy hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the DISTRICT and LICENSEE shall maintain such insurance from the time LICENSEE commences occupancy hereunder until the completion of such occupancy. Within sixty (60) days of the commencement of this agreement, the LICENSEE shall furnish certified copies of the policies and all endorsements.

G. The above insurance requirements are subject to periodic review by the DISTRICT. The COUNTY's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of the DISTRICT. In addition, if the Risk Manager determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the DISTRICT/COUNTY, inflation, or any other item reasonably related to the DISTRICT/COUNTY's risk. Any such reduction or waiver for the entire term of the agreement and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this agreement. LICENSEE agrees to execute any such amendment within thirty (30) days of receipt.

H. Insurance requirements can be satisfied through a policy of insurance or an approved program of self-insurance.

I. Failure to Procure Insurance. All insurance required must be maintained in force at all times by LICENSEE. Failure to maintain said insurance, due to expiration, cancellation, etc., shall be cause for the DISTRICT to give notice to immediately suspend all LICENSEE's business activities. Failure to reinstate said insurance within ten (10) days of notice to do so shall be cause for termination and forfeiture of this agreement, and/or DISTRICT, at its discretion, may procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by DISTRICT shall be repaid by LICENSEE to DISTRICT upon demand.

J. DISTRICT shall have no liability for any premiums charged for such coverage(s). The inclusion of DISTRICT/COUNTY as additional named insured is not intended to and shall not make a partner or joint venturer with LICENSEE in LICENSEE's operations.

16. **HOLD HARMLESS:** Each LICENSEE agrees to indemnify, defend (with counsel approved by DISTRICT and COUNTY) and hold harmless the DISTRICT, the COUNTY and their respective officers, agents, volunteers and employees from any and all claims, actions, losses, damages, and/or liabilities arising out of this lease from any cause whatsoever, including the acts, errors, omissions or negligence of any person, and for any costs and expenses incurred by the DISTRICT or the COUNTY on account of any claim therefor, except where such indemnification is prohibited by law and except where caused solely by the negligence or willful misconduct of the DISTRICT or the COUNTY.

17. **TAXES, ASSESSMENTS AND LICENSES:** LICENSEE shall pay before delinquency any and all property taxes, assessments, fees, or charges, including possessory interest taxes, which may be levied or assessed upon any personal property, improvements or fixtures, if any, installed or belonging to LICENSEE and located within the Premises. LICENSEE shall also pay all license or permit fees necessary or required by law for the conduct of its operation and/or in accordance with Section 107 of the California Revenue and Taxation Code. LICENSEE recognizes and understands that this license may create a possessory interest subject to property taxation and that the LICENSEE may be subject to the payment of property taxes levied on such interest, unless the parties otherwise agree in writing prior to the start of construction or installation.

18. **COMPLIANCE WITH LAW:** All activities under this license must conform to all applicable rules, regulations, laws, ordinances, codes, statutes or orders of any governmental authority, Federal, State or local lawfully exercising authority over LICENSEE's operations. In the event that the LICENSEE's use of the above-described property conflicts in any way, or is in violation of any of said rules, regulations, ordinances, statutes or orders, the LICENSEE shall remove or modify the installation to conform with the applicable regulations within thirty (30) days of receipt of written notice to do so from the DISTRICT. DISTRICT's determination of conflicting use shall be conclusive. However, LICENSEE retains the right for appeal of any regulatory ruling if such appeal procedure exists.

19. **GENERAL COVENANTS AND AGREEMENTS:**

A. At anytime during the life of the license, the DISTRICT may revise, modify, or add provisions to the license as may be required to meet the DISTRICT's obligations for water conservation and flood control purposes so long as any revisions, modifications, etc., do not substantially interfere with LICENSEE's use of the Premises.

B. LICENSEE agrees not to use said Premises, or any part thereof, for any purpose which causes injury to any neighboring property, nor for any purpose in violation of valid applicable laws or ordinances.

C. No political signs shall be permitted on DISTRICT's right-of-way.

D. Uses granted to LICENSEE under this license are valid only to the extent of the DISTRICT's existing rights and may be subject to other easements and encumbrances. Rights granted to the LICENSEE are not exclusive.

E. Activities under this license are subject to any instructions of the Flood Control Engineer or his representative acting in his capacity as a regulatory agency under the Flood Control Act.

F. If the LICENSEE should refuse or neglect to comply with the provisions of the license, or the orders of the DISTRICT, the DISTRICT may have such provisions or orders carried out by others at the expense of the LICENSEE. All the terms, covenants and conditions set forth herein are to be strictly complied with by the LICENSEE. Any failure to comply therewith shall be grounds for immediate cancellation of the license.

G. This license is valid only to the extent of DISTRICT jurisdiction. Permits required by other interested agencies shall be the responsibility of the LICENSEE. **NOTHING CONTAINED IN THIS LICENSE SHALL BE CONSTRUED AS A RELINQUISHMENT OF ANY RIGHTS NOW HELD BY THE DISTRICT.**

20. **INCORPORATION OF PRIOR AGREEMENT:** This license contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this license, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose.

21. **WAIVERS:** No waiver by either party of any provisions of this license shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by either party of the same or any other provisions.

22. **AMENDMENTS:** No provision of this license may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successor in interest, expressing by its terms an intention to modify this license.

23. **SUCCESSORS:** This license shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto.

24. **PROVISIONS ARE COVENANTS AND CONDITIONS:** All provisions, whether covenants or conditions, on the part of either party shall be deemed to be both covenants and conditions.

25. **CONSENT:** Whenever consent or approval of either party is required that party shall not unreasonably withhold nor delay such consent or approval.
26. **EXHIBITS:** All exhibits referred to are attached to this license and incorporated by reference.
27. **LAW:** This license shall be construed and interpreted in accordance with the laws of the State of California.
28. **CAPTIONS AND COVER PAGE:** The paragraph captions and the cover page of this license shall have no effect on its interpretations.
29. **SEVERANCE:** If any provision of this license is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this license, and all such other provisions shall remain in full force and effect provided, however, that the purpose of the license is not frustrated. It is the intention of the parties hereto that if any provision of this license is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.
30. **NOTICES:** Any notice, demand, request, consent, approval, or communication that any party desires or is required to give to any other party, or any other person shall be in writing and either served personally or sent by prepaid, first-class mail. Any such notice, demand, request, consent, approval, or communication that any party desires or is required to give to the parties shall be addressed to the other parties at the address set forth below. Any party may change its address by notifying the other parties of the change of address. Notice shall be deemed communicated two (2) DISTRICT working days from the time of mailing if mailed as provided in this paragraph.

DISTRICT's address: San Bernardino Co. Flood Control District  
Attention: Flood Control Engineer  
825 East Third Street  
San Bernardino, Ca 92415-0835

LICENSEE's address: "SAWPA"  
Santa Ana Watershed Project Authority  
11615 Sterling Avenue  
Riverside, CA 92503

"SAN BERNARDINO"  
City of San Bernardino  
300 N. "D" Street  
San Bernardino, CA 92418

"SAN BERNARDINO WATER"

City of San Bernardino Municipal Water Department

P.O. Box 710

San Bernardino, CA 92402

"COLTON"

City of Colton

650 N. LaCadena Drive

Colton, CA 92324

\* \* \* \* \*

\* \* \* \* \*

31. **SURVIVAL:** The obligations of the parties which, by their nature, continue beyond the term of this license, will survive the termination of this license.

**END OF CONTRACT.**

**SAN BERNARDINO COUNTY FLOOD  
CONTROL DISTRICT**

**LICENSEE: "SAWPA" SANTA ANA  
WATERSHED PROJECT AUTHORITY**

By \_\_\_\_\_  
Chairman, Board of Supervisors  
Acting as Governing Body of District

Date \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

SIGNED AND CERTIFIED THAT A  
COPY OF THIS DOCUMENT HAS BEEN  
DELIVERED TO THE CHAIRMAN OF  
THE BOARD

"SAN BERNARDINO"  
City of San Bernardino

EARLENE SPROAT, Clerk of the  
Board of Supervisors

By \_\_\_\_\_  
Judith Valles

Title: Mayor

By \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_  
Rachel Clark

Title: City Clerk

APPROVED AS TO LEGAL FORM:

ALAN K. MARKS, County Counsel  
San Bernardino County, California

Date \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_



"San Bernardino Water"  
City of San Bernardino Municipal Water Department

By \_\_\_\_\_  
B. Warren Cocke

Title: President, Board of Water Commissioners

Date \_\_\_\_\_

Approved as to Form:  
James F. Penman, City Attorney, San Bernardino

By \_\_\_\_\_

Date \_\_\_\_\_

"Colton"  
City of Colton

By \_\_\_\_\_  
Karl E. Gaytan

Title: Mayor

Date \_\_\_\_\_

By \_\_\_\_\_  
Carolina Barrera

Title: City Clerk

Date \_\_\_\_\_

**EXHIBIT "1"**

**PERMIT NO. P-293065**

**EXHIBIT "2" - INSURANCE**

**LICENSEE COMPLETE THIS FORM AND ATTACH A CERTIFIED COPY OF ALL INSURANCE POLICIES AND ENDORSEMENTS.**

**LICENSEE:**

**PREMISES:**

**TERM:**

**PRIMARY INSURANCE POLICY:**

Name of Licensee's Insurance Company \_\_\_\_\_

Effective Dates of Policy \_\_\_\_\_

Claims Made Policy \_\_\_\_\_ Per Occurrence Policy \_\_\_\_\_

Limits of Liability \_\_\_\_\_

Deductibles:

Per Occurrence \_\_\_\_\_

Annual Aggregate \_\_\_\_\_

Additional Insured Endorsement Attached \_\_\_\_\_ Yes \_\_\_\_\_ No

Certified Copy of Policy Attached \_\_\_\_\_ Yes \_\_\_\_\_ No

**EXCESS/UMBRELLA POLICY**

Name of Licensee's Insurance Company \_\_\_\_\_

Effective Dates \_\_\_\_\_

Limits of Liability \_\_\_\_\_

Underlying Coverage Limits \_\_\_\_\_

Name of Underlying Company \_\_\_\_\_

Additional Insured Endorsement Attached \_\_\_\_\_ Yes \_\_\_\_\_ No

Certified Policy (Copy of) Attached \_\_\_\_\_ Yes \_\_\_\_\_ No

**NOTE:** If there are any questions concerning the required insurance, LICENSE contact the County Risk Management Office at (909) 386-8622.

**EXHIBIT "3"**

**HAZARDOUS SUBSTANCES ALLOWED ON THE PROPERTY**